

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2018 Legislative Session

Legislative Day No. **13**

Bill No. 72-2018

Introduced by: The Chairperson at the request of the County Executive

AN ACT pursuant to Section 612 of the Howard County Charter, approving a multi-year Loan Agreement between Howard County, Maryland and Sandy Spring Bank for a loan as part of a Maryland Water Quality Financing Administration program; and authorizing the County Executive to take certain actions in connection with the agreement.

Introduced and read first time _____, 2018. Ordered posted and hearing scheduled.

By order _____
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2018.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 2018 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2018 at ___ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2018

Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

1 **WHEREAS**, the County is seeking a loan to partially fund a stream restoration project
2 located at 1960 Daisy Road, Woodbine, Maryland (the “Project”) through the Maryland Water
3 Quality Financing Administration Linked Deposit Loan program (the “Program”); and
4

5 **WHEREAS**, through the Program, the Maryland Department of the Environment
6 (“MDE”) has negotiated with participating lenders to offer below-market interest rates on loans to
7 facilitate water quality capital improvements; and
8

9 **WHEREAS**, the budget for Fiscal Year 2019 includes \$4,200,000 in capital project
10 D1158, Watershed Management Construction, as Water Quality State Bond Loan funding for the
11 Project; and
12

13 **WHEREAS**, the County has obtained a majority of the Project funding from other sources
14 and has greatly reduced its loan needs; and
15

16 **WHEREAS**, other sources of funding for the Project include a Chesapeake and Atlantic
17 Coastal Bays Trust Fund Grant in the amount of \$1,825,000 and funding from the Washington
18 Suburban Sanitary Commission in the amount of \$654,000; and
19

20 **WHEREAS**, the total cost of the Project is \$4,125,000, leaving only \$1,646,000 to be
21 funded through a Program loan; and
22

23 **WHEREAS**, through the Program, MDE and Sandy Spring Bank have approved the
24 County’s loan request; and
25

26 **WHEREAS**, the County and Sandy Spring Bank desire to enter into a Loan Agreement,
27 for the repayment of the loan, substantially in the form attached as Exhibit 1, for a term of ten
28 years; and
29

30 **WHEREAS**, the Loan Agreement requires the payment by the County of funds from an

1 appropriation in later fiscal years and therefore requires County Council approval as a multi-year
2 agreement pursuant to Section 612 of the Howard County Charter.

3
4 **NOW, THEREFORE,**

5
6 ***Section 1. Be It Enacted*** by the County Council of Howard County, Maryland that in accordance
7 with Section 612 of the Howard County Charter, it approves the Loan Agreement between Howard
8 County and Sandy Spring Bank for a term of ten years substantially in the form of Exhibit 1
9 attached to this Act.

10
11 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
12 the County Executive is hereby authorized to execute the Loan Agreement for such term in the
13 name of and on behalf of the County.

14
15 ***Section 3. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
16 the County Executive, prior to execution and delivery of the Loan Agreement, may make such
17 changes or modifications to the Loan Agreement and enter into related loan closing documents as
18 he deems appropriate in order to accomplish the purpose of the transactions authorized by this
19 Act, provided that such changes or modifications shall be within the scope of the transactions
20 authorized by this Act; and the execution of the Loan Agreement by the County Executive shall be
21 conclusive evidence of the approval by the County Executive of all changes or modifications to the
22 Loan Agreement, and the Loan Agreement shall thereupon become binding upon the County in
23 accordance with its terms.

24
25 ***Section 4. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
26 this Act shall be effective immediately upon its enactment.

LOAN AGREEMENT

THIS LOAN AGREEMENT (this “Agreement”) is made as of September _____, 2018 (the “Effective Date”), by and between HOWARD COUNTY, MARYLAND, a body corporate and politic and political subdivision of the State of Maryland (“Borrower”), and SANDY SPRING BANK, a commercial banking institution (“Lender”).

RECITALS

Borrower has applied to Lender for a loan or credit facility (the “Loan”, as defined hereinafter) for the purposes and upon the terms and conditions set forth herein. Lender has agreed to make the Loan to Borrower upon the condition that Borrower execute and deliver this Agreement and the other Loan Documents in order to assure the application of the net proceeds of the Loan in accordance with the terms and conditions herein.

NOW, THEREFORE, in consideration of the foregoing recitals (which will be deemed a substantive part of this Agreement), and as an inducement for Lender to make the Loan to Borrower and in consideration thereof, Borrower agrees with Lender as follows:

1. **DEFINITIONS.**

1.1. **Basic Definitions.** As used in this Agreement, the capitalized terms defined in this Section 1 or elsewhere in this Agreement (including the Recitals above) have the respective meanings indicated and are capitalized throughout this Agreement.

“Borrower” means Howard County, Maryland, a body corporate and politic and political subdivision of the State of Maryland.

“Banking Day” means any day Lender is open for business in Maryland other than a Saturday, Sunday or a legal holiday, ending at 5:00 P.M. Columbia, Maryland time.

“Closing” means the closing for the consummation of the Loan and the execution and delivery of the Loan Documents.

“Code” means the Internal Revenue Code of 1986, as amended, or the corresponding provisions of any succeeding federal tax law.

“Deposit Agreement” means the Deposit Agreement dated on or before Closing between the State of Maryland Department of the Environment (“MDE”), Borrower and Lender with respect to a Certificate of Deposit in no less than the amount of the Loan to be established with Lender at or before Closing.

“Event of Default” means the occurrence of any of the following events or circumstances: (i) the failure of Borrower to pay any amount or installment due under the Note or the other Loan Documents when the same becomes due; (ii) the occurrence of any breach or default by Borrower or any Obligor of any covenant or agreement under this Agreement or any of the other Loan Documents after the passage of all applicable notice and cure or grace periods; (iii) any representation or warranty of Borrower or any Obligor in this Agreement or any of the other Loan Documents was false in any material respect when made, or if Borrower or any Obligor provides or has provided to Lender any

statement or account, financial statement or other information that is false, incomplete or misleading in any material respect; (iv) the commencement by Borrower or by any Obligor of a voluntary petition or other pleading under the federal bankruptcy laws or any state insolvency or similar laws; (v) the filing against Borrower or any Obligor of an involuntary petition or other pleading under the federal bankruptcy laws or any state insolvency or similar laws, and the failure of such petition or pleading to be unconditionally dismissed within thirty (30) days from the date of filing; (vi) the filing against Borrower or any Obligor of an involuntary petition or other pleading seeking a reorganization of Borrower or any Obligor or the appointment of a receiver, liquidator, assignee, custodian, trustee, or similar official for Borrower or any Obligor, and the failure of such petition or pleading to be unconditionally dismissed within thirty (30) days from the date of filing; (vii) the consent by Borrower or any Obligor to the appointment or taking possession by a receiver, liquidator, assignee, trustee, custodian or similar official; (viii) the making by Borrower or any Obligor of an assignment for the benefit of creditors; (ix) the entry of any judgment, order, award or decree against Borrower or any Obligor and a determination by Lender, in good faith but in its sole discretion, that the same, when aggregated with all other judgments, orders, awards and decrees outstanding against Borrower or such Obligor, could have a material adverse effect on the prospect for Lender to fully and punctually realize the full benefits conferred on Lender by the Loan Documents; (x) Borrower or any Obligor becomes insolvent (as defined in Section 101 of the United States Bankruptcy Code) or unable to pay its debts as they become due, or admit in writing to such insolvency or to such inability to pay its debts as they become due; or (xi) the determination in good faith by Lender that there has occurred a material adverse change in the financial condition of Borrower or any Obligor,

“GAAP” means generally accepted accounting principles as promulgated or adopted by the Financial Accounting Standards Board (or any successor) and/or the American Institute of Certified Public Accountants (or any successor), consistently applied and maintained throughout the periods indicated.

“Loan” means the loan or credit facility in the maximum principal amount of One Million Six Hundred Forty Six Thousand and 00/100 Dollars (\$1,646,000.00) provided by Lender to Borrower pursuant to the terms of this Agreement and the other Loan Documents.

“Loan Commitment” means the written Loan Commitment, dated August 21, 2018, provided by Lender to Borrower for the Loan, and any amendments thereto.

“Loan Documents” means, collectively, this Agreement, the Note, the Deposit Agreement, and any and all other documents which Borrower has executed and delivered, or may hereafter execute and deliver, to evidence the Loan, in whole or in part.

“Note” means the Promissory Note, of even date herewith, executed by Borrower and payable to Lender, in the stated principal amount of One Million Six Hundred Forty Six Thousand and 00/100 Dollars (\$1,646,000.00), as the same may be amended, restated, modified, extended or renewed from time to time.

“Obligations” means, collectively: (i) the obligation, agreement, promise and liability of Borrower to pay in full all principal, interest, fees, expenses and other amounts under the Note and the other Loan Documents, as and when the same will become due and payable (whether by reason of installment, demand, maturity, acceleration or otherwise, time being the essence); (ii) all other indebtedness, agreements, promises, obligations and liabilities (including, without limitation, indemnification obligations and liabilities) of Borrower to Lender in connection with the Loan, the Loan Documents, or otherwise; and (iii) all renewals, refinancings, consolidations, re-castings and extensions

of any of the foregoing.

“Obligors” means, collectively, Borrower and/or any other Person who may at any time now or hereafter be primarily or secondarily liable for any or all of the Obligations, including, without limitation, any other borrower and any other maker, endorser, surety or any Person who is now or hereafter a party to any of the Loan Documents.

“Person” means any individual, corporation, partnership, joint venture, limited liability company, unincorporated association, estate, trustee, government (whether federal, state, county, city or otherwise, including, without limitation, any instrumentality, division, agency or department thereof), or other legal entity.

“Principal Office” means Borrower’s principal location in Howard County, Maryland, generally known as 3430 Courthouse Drive, Ellicott City, MD 21043.

Any reference to “Borrower” or “Lender” will be deemed to include the respective heirs, legal representatives, successors and assigns of Borrower or Lender; provided, however, that Borrower will in no event have the right, without obtaining the prior written consent of Lender, to assign or transfer any of its obligations under this Agreement or the other Loan Documents, in whole or in part, to any other Person.

2. LOAN.

2.1. The Loan. Subject to the terms and conditions set forth in this Agreement, Lender agrees to lend to Borrower up to One Million Six Hundred Forty-Six Thousand and 00/100 Dollars (\$1,646,000.00). The interest rate on the Loan and the method of calculating interest upon the Loan, the term of the Loan, the method and times of repayment, and other terms pertaining to the repayment of the Loan will be set forth in and evidenced by the Note, the terms of which are incorporated into this Agreement by reference and made a part hereof as if fully set forth herein.

2.2. Purpose of Loan. The proceeds of the Loan will be used to partially finance a storm water restoration project located at 1960 Daisy Road, Woodbine, MD 21797 (the “Project”). The proceeds of the Loan will be disbursed at Closing.

2.3. Costs of Loan. It is contemplated and agreed among the parties that the making and administration of the Loan will be cost free to Lender. Accordingly, Borrower will pay promptly upon request all cost and expenses incurred by Lender in the making and administration of the Loan, whether or not the Loan or any part thereof is closed, including, without limitation, fees of legal counsel (including reasonable fees of Lender’s legal counsel). Lender’s counsel will prepare all Loan Documents, and its legal fees and expenses therefor will be paid by Borrower. Borrower will hold Lender harmless and indemnify Lender against all claims of brokers and “finders” arising by reason of the execution and delivery of this Agreement and the other Loan Documents or the consummation of the transaction contemplated herein and therein.

2.4. Execution and Delivery of Loan Documents. Borrower will execute and deliver all of the Loan Documents to Lender at Closing.

2.5. Commitment Fee. At or prior to Closing, Borrower will pay to Lender a commitment fee in the amount of \$4,115.00 (the “Commitment Fee”), which will be deemed fully earned upon acceptance of the Loan Commitment by Borrower.

3. Conditions Precedent for Loan Disbursement. Lender will not be obligated to disburse any of the Loan proceeds hereunder unless and until all of the following conditions precedent are and continue to be fully met to the satisfaction of Lender: (i) Borrower will have complied with all covenants, agreements and obligations set forth in this Agreement and in the other Loan Documents and paid all fees and charges that may be then due to Lender; (ii) all representations and warranties made by Borrower in this Agreement or in any of the other Loan Documents will be true and correct in all material respects; (iii) no Event of Default, or any event which upon notice and/or the lapse of time, or both, would constitute an Event of Default, will have occurred; (iv) all items and documents set forth in the Loan Commitment will have been delivered to and approved by Lender and all other terms and conditions set forth in the Loan Commitment will have been met, performed and satisfied to Lender's satisfaction, including delivery of certificate(s) evidencing appropriate and insurance coverage required in Section 5.8 below; (v) the State of Maryland Department of the Environment shall have established a Certificate of Deposit with Lender with a balance of no less than the amount of the Loan, in accordance with the Deposit Agreement; and (vi) all of the Loan Documents will have been duly executed, acknowledged as required, delivered to Lender.

4. REPRESENTATIONS AND WARRANTIES. Borrower hereby represents, warrants, covenants and agrees that:

4.1. Legal Status; Good Standing. Borrower is a body corporate and politic and political subdivision of the State of Maryland, duly organized, validly existing and in good standing under the laws of the State of Maryland. Borrower has full right, power and authority to carry on its business and activities as they are now being conducted and to carry on business and activities in the State of Maryland.

4.2. Authorization and Validity. Borrower has all necessary and proper power and authority to enter into and consummate the Loan and the other transactions contemplated herein and in the other Loan Documents to which Borrower is a party. The execution, delivery and performance by Borrower of this Agreement and the other Loan Documents to which Borrower is a party are within its power and have been duly authorized by all necessary action of Borrower. The individuals executing this Agreement and the other Loan Documents on behalf of Borrower have been duly authorized to execute and deliver the same and to perform any and all acts as may be necessary to consummate the transactions contemplated hereby and thereby. This Agreement constitutes, and the Loan Documents to which Borrower is a party will upon execution, constitute the valid and binding obligations of Borrower, enforceable against Borrower in accordance with their terms, subject only to laws affecting the rights of creditors generally and application of general principles of equity.

4.3. No Consents. No approval or consent of, or notice to or filing with, any Person not a party to this Agreement or any governmental or quasi-governmental agency is necessary to authorize the execution or delivery of this Agreement or any of the other Loan Documents to which Borrower is a party or the consummation of the transaction contemplated herein or therein by Borrower, or Borrower has obtained such approval, consent, notice or filing.

4.4. No Violation. Borrower is not in default under or in violation of, and the execution, delivery and performance by Borrower of this Agreement and the other Loan Documents to which Borrower is party does not and will not result in a default under or a violation or termination of and does not and will not conflict with: (i) Borrower's charter or any other governing document of Borrower; (ii) any mortgage, deed of trust, indenture, license, permit, approval, consent, franchise, lease, contract, or other instrument, document or agreement to which Borrower is a party or by which Borrower

is bound; or (iii) any law, regulation, ordinance, order, injunction, decree or other requirement of any governmental body or court applicable to Borrower.

4.5. Financial Statements. Any financial statement submitted by Borrower to Lender, including any schedules and notes pertaining thereto, is true and complete, has been prepared in accordance with GAAP (unless otherwise expressly stated therein), and fully and fairly presents the financial condition of Borrower at the date thereof and the results of operations for the period covered thereby. There have been no material adverse changes in the financial condition or business of Borrower from the date thereof to the Effective Date hereof which have not been disclosed in writing to Lender. Borrower has not, since the date of the financial statements last provided to Lender: (i) suffered any material adverse change in its operations, earnings, assets, liabilities or business (financial or otherwise); or (ii) committed any act or omission which would be a violation of any of the covenants or obligations of such party under this Agreement or any of the other Loan Documents if this Agreement or such other Loan Documents had then been in effect. Borrower has no knowledge of any past, present or future condition, state of facts or circumstances which has affected or which might affect adversely its business or activities or prevent it from carrying on such business or activities after Closing.

4.6. No Litigation, Proceedings or Judgments. There is no litigation, action, suit, proceeding, claim, arbitration, inquiry or investigation, pending or threatened, by any Person against or relating to Borrower which challenges the execution, delivery or consummation of this Agreement or any of the other Loan Documents or any of the transactions contemplated herein or therein, or otherwise asserting any right or claim which if determined adversely to Borrower would result in any material adverse change in the financial condition of Borrower. Borrower is not, and has not been, the subject of any bankruptcy, reorganization, insolvency, readjustment of debt, trusteeship, receivership, dissolution or liquidation proceeding.

4.7. Review of Loan Documents. Borrower has examined or has had an opportunity to examine this Agreement and each of the other Loan Documents prior to executing this Agreement.

4.8. Commercial Loan. All proceeds of the Loan will be used solely to acquire or carry on a business or commercial enterprise in which Borrower has an interest, and the Loan will provide a financial benefit to Borrower. The Loan is not a “consumer transaction” as defined in the Uniform Commercial Code.

4.9. Representations and Warranties in Loan Documents. Each and every representation and warranty made by Borrower in this Agreement or in any of the other Loan Documents and/or in any loan application or other document provided to Lender, as the case may be, is and will continue to be accurate, true, correct, complete and not misleading in any respect.

4.10. Full Disclosure. Neither this Agreement nor any other Loan Document includes any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements herein or therein, in light of the circumstances under which they were made, not misleading. There is no fact known to Borrower which is not disclosed in this Agreement or in the other Loan Documents which materially adversely affects the accuracy of the representations and warranties contained in this Agreement or in any of the other Loan Documents.

4.11. Survival. Each warranty, representation and covenant of Borrower set forth in this Agreement and the other Loan Documents will survive the execution and delivery of this Agreement, will survive the Closing, will survive any advance of Loan proceeds.

4.12. USA Patriot Act. Neither Borrower, nor any employee of any Obligor is identified in any Blocked Persons List. Blocked Persons List means any list of known or suspected terrorists published by any United States government agency, including, without limitation, (i) the annex to Executive Order 13224 issued on September 23, 2001 by the President of the United States and (ii) the Specially Designated Nationals List published by the United States Office of Foreign Assets Control.

5. COVENANTS OF BORROWER. Until (i) all Obligations have been fully paid, satisfied, discharged and performed and (ii) there exists no commitment by Lender which could give rise to any Obligations, Borrower agrees and covenant as follows:

5.1. Performance of Obligations. Borrower will completely pay and perform all of the Obligations on a timely basis and will otherwise perform, comply with and observe all of the terms and conditions of all of the Loan Documents to be performed, complied with, and observed by Borrower.

5.2. Books and Records. Borrower will: (i) at all times maintain, in accordance with GAAP, accurate and complete books and records pertaining to the operation, business and financial condition of Borrower and (ii) permit access by Lender to, reproduction by Lender of and copying by Lender from, such books and records during normal business hours. If Borrower now or at any time hereafter maintains any records (including without limitation computer generated records and computer software programs for the generation of such records) in the possession of a third party, Borrower, upon request of Lender, shall notify such third party to permit Lender free access to such records at all reasonable times and to provide Lender with copies of any records it may request. All reasonable costs and expenses of Lender's inspections and examinations as provided above will be paid by Borrower.

5.3. Borrower's Financial Information. Borrower will furnish to Lender no later than December 31st of each calendar year, commencing with those relating to Borrower's 2018 fiscal year, its annual financial statement, including (i) a balance sheet as of the end of the applicable period; (ii) an income and expense statement for such period; (iii) statement of changes in financial position; and (iv) accounts receivables and payables aging schedules for such period. All financial statements will be in reasonable detail, including all footnotes, and supporting schedules and comments necessary to verify or confirm entries in the financial statements. All financial statements will be prepared in accordance with GAAP and audited by an independent certified public accountant reasonably acceptable to Lender. The cost of preparing the financial statements will be paid by Borrower. Borrower will also provide Lender such other information concerning the financial condition and operations of Borrower, in such form, containing such information and accompanied by such documents as may be satisfactory to Lender from time to time, as Lender may reasonably require from time to time. Borrower will permit Lender, its agents and designees, to discuss Borrower's financial condition and business operations with Borrower's employees.

5.4. Continuation of Legal Existence. Borrower will at all times maintain its legal existence in good standing.

5.5. Compliance With Laws. Borrower will at all times observe and comply with all present and future laws, ordinances, orders, rules and regulations of all federal, state, city and county governments, and all other governmental authorities, affecting the operation of Borrower's business and activities.

5.6. Civil and Criminal Proceedings. Borrower will promptly notify Lender in writing of (i) the threatened or actual commencement of a criminal proceeding or investigation or (ii) any action, suit or proceeding at law or in equity by or before any court, governmental agency or

instrumentality which could result in any material adverse change in the business, operations, prospects, properties or assets or in the condition, financial or otherwise, of Borrower.

5.7. Notice of Event of Default. Borrower will immediately notify Lender in writing of the occurrence of any Event of Default or any event or existing condition which, with the giving of notice and/or the lapse of time, could constitute an Event of Default or which might materially and adversely affect the financial conditions or operations of Borrower and the facts with respect thereto.

5.8. Insurance. Borrower will procure and at all times maintain or cause to be procured and maintained in full force and effect, at the sole expense of Borrower, such liability, casualty and other insurance or shall self-insure on the Project and its other assets in a manner as is reasonable and prudent for similarly situated projects in the State of Maryland.

5.9. Certain Negative Covenants. Borrower will not, directly or indirectly, without Lender's prior written consent, do or allow to be done any of the following: (i) change Borrower's name, change the address of Borrower's Principal Office, or move any books or records from Borrower's Principal Office; or (ii) assign or attempt to assign this Agreement or any of the other Loan Documents, and any such attempted assignment will be void.

6. REMEDIES UPON DEFAULT.

6.1. General. In addition to all other rights and remedies available under this Agreement and the Loan Documents, and all other rights and remedies available under applicable laws, Lender may, upon the occurrence of any Event Default, without notice or demand, exercise in any jurisdiction in which enforcement hereof is sought any and all of the following rights and remedies: (i) declare the Note and all Obligations to be immediately due and payable, whereupon the same will thereupon become immediately due and payable without presentment, demand for payment, protest or notice of any kind, all of which are hereby expressly waived; (ii) institute and prosecute any proceeding or proceedings to enforce the Obligations; (iii) seek specific performance or injunctive relief to enforce performance of the Obligations, whether or not a remedy at law exists or is adequate; and (iv) refuse to make any further disbursements of Loan proceeds until the Event of Default has been cured to the satisfaction of Lender.

6.2. No Waiver by Lender. No failure or delay of Lender or other holder of the Note to exercise any right or remedy pursuant to this Agreement (including, without limitation, any right or option to declare any amount hereunder due and payable), will affect such right or remedy or constitute a waiver of any such right or remedy. No waiver of any provision or of a breach of any provision will constitute a waiver of any other provision or breach, or a waiver of any subsequent breach of the same provision. No waiver will be established by repetition in the course of dealing. No waiver will be effective unless in writing and signed by Lender. Resort to one form of remedy will not constitute a waiver of alternative remedies. No acceptance by Lender of partial payment of any sum due hereunder will be deemed a waiver by Lender or other holder of the Note of its rights to receive the full amount due, nor will any endorsement or statement on any check or accompanying document from Borrower be deemed an accord and satisfaction. No notice to or demand on Borrower will be deemed to be a waiver of the obligation of Borrower or of the right of Lender or other holder to take further action without further notice or demand as provided in this Agreement or the other Loan Documents. Lender will not be deemed to have waived the right either to require payment when due of all other Obligations or to declare an Event of Default for failure to effect such payment of any such other Obligations.

6.3. Waivers by Borrower. Borrower hereby waives, to the extent the same may be

waived under applicable law: (i) notice of acceptance of this Agreement; (ii) all claims, causes of action and rights of Borrower against Lender on account of actions taken or not taken by Lender in the exercise of Lender's rights or remedies hereunder, under the Loan Documents or under applicable law; (iii) all claims of Borrower for failure of Lender to comply with any requirement of applicable law relating to enforcement of Lender's rights or remedies hereunder, under the Loan Documents or under applicable law; and (iv) presentment, demand for payment, protest and notice of non-payment and all exemptions. Borrower agrees that Lender may exercise any or all of its rights and/or remedies hereunder, under the Loan Documents and under applicable law without resorting to and without regard to any sources of liability with respect to any of the Obligations.

6.4. Performance by Lender. Upon any Event of Default hereunder, Lender, without notice to or demand upon Borrower and without waiving or releasing any of the Obligations or any Event of Default, may (but will be under no obligation to) at any time thereafter perform such conditions, terms or covenants for the account and at the expense of Borrower, and may make any payment or do other actions to cure defaults hereunder and may enter upon any place of business or other premises of Borrower for that purpose and take all such action thereon as Lender may consider necessary or appropriate for such purpose. All sums paid or advanced by Lender in connection with the foregoing and all costs and expenses (including, without limitation, attorneys' fees and expenses) incurred in connection therewith, together with interest thereon at a per annum rate of interest which is equal to the then highest rate of interest charged on the principal of any of the Obligations from the date of payment until repaid in full, will be paid by Borrower to Lender on demand and will constitute and become a part of the Obligations secured hereby.

6.5. Lender's Setoff. Lender will have the right, in addition to all other rights and remedies available to it, following an Event of Default, to set off against any Obligations due Lender, any debt or liability owing to Borrower by Lender, including, without limitation, any funds in any checking or other account now or hereafter maintained by Borrower at Lender. Borrower hereby confirms Lender's right to banker's lien and setoff, and nothing in this Agreement or any of the Loan Documents will be deemed a waiver or prohibition of Lender's right of setoff.

6.6. Remedies Not Exclusive. No remedy of Lender hereunder is intended to be exclusive of any other available remedy, but every such remedy will be in addition to every other remedy hereunder or which is now or hereafter existing at law or in equity or by statute or which are provided under any of the Loan Documents, it being specifically understood and agreed that all such remedies may be exercised in the alternative or cumulatively in the sole discretion of Lender.

7. FURTHER ASSURANCES. Borrower will, upon request of Lender, execute and deliver or cause to be executed and delivered, in form and content satisfactory to Lender such other documents and instruments as Lender may reasonably request in order to carry out and enforce the terms of this Agreement.

8. INDEMNIFICATION. Borrower agrees to indemnify, hold harmless, defend and reimburse Lender from and against any and all claims, suits, actions, liabilities, damages, losses, costs and expenses (including reasonable attorneys' fees, court costs and other expenses of collection), suffered or incurred by Lender arising from or in connection with any Event of Default. Without limiting the generality of the foregoing, upon the occurrence of any Event of Default, Borrower will indemnify and reimburse Lender on demand for all fees incurred by Lender consulting with legal counsel regarding any of Lender's rights hereunder or under the Note or any of the other Loan Documents with respect to such Event of Default, whether or not suit is actually filed. In addition, Borrower will pay Lender interest on all attorneys' fees, court costs and other expenses of collection incurred by Lender arising

from or in connection with any Event of Default at the Default Rate (as defined in the Note). The provisions of this Subsection will survive the termination of this Agreement and the payment of all Obligations.

9. MISCELLANEOUS.

9.1. Notices. Any notice, demand or other communication to be given hereunder will be in writing and given in accordance with the Notice provisions set forth in the Note.

9.2. Governing Law; Jurisdiction. This Agreement shall be deemed given in the State of Maryland regardless of where it was actually signed and it shall be governed by and construed and enforced in accordance with the internal laws of the State of Maryland. Any suit, action or proceeding arising from or relating to any of the Obligations, this Agreement or any of the Loan Documents shall be brought in the state or federal courts sitting in the State of Maryland. Borrower irrevocably consents and submits to the jurisdiction of such courts and waives any objection to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

9.3. Assignability. Lender may, without notice to or consent of Borrower, assign or transfer all or any part of the Note, the Loan Documents or any of the Obligations to any Person or Persons, and this Agreement will inure to the benefit of Lender's assignee or transferee, including any other holder of the Note, to the extent of such assignment or transfer. The liability of Borrower under this Agreement will not in any way be affected by any assignment or transfer of the Note, the Loan Documents or any of the Obligations. This Agreement will inure to the benefit of and be enforceable by Lender and Lender's successors and assigns and any other person to whom Lender may grant an interest in the Obligations, and this Agreement will be binding and enforceable against Borrower, its successors and assigns. Lender will have the right to grant participations in the Obligations to others at any time and from time to time, and Lender may divulge to any such participant or potential participant all information, reports, financial statements, and documents obtained in connection with the Loan, this Agreement, any of the Loan Documents, or otherwise.

9.4. Rules of Construction. Whenever the phrase "satisfactory to Lender" is used in this Agreement such phrase will mean "satisfactory to Lender in its sole and absolute discretion." The enumeration and headings of the sections of this Agreement are merely for convenience of reference and do not constitute representations or warranties, do not impose any obligations whatever and have no substantive significance. Unless the context otherwise requires, whenever used in this Agreement the singular will include the plural, the plural will include the singular, and the masculine gender will include the neuter or feminine gender and vice versa. This Agreement will be construed without the aid of any canon, custom or rule of law requiring construction against the draftsman, and this Agreement will be construed reasonably to carry out its intent without presumption against or in favor of either party. All accounting terms used herein without definition will have the meanings assigned to them as determined by GAAP.

9.5. Amendments; No Oral Agreements. No modification, change, waiver or amendment of this Agreement will be effective unless in writing and signed by Lender. Borrower acknowledges that no oral or other agreements, conditions, promises, understandings, representations or warranties exist with respect to this Agreement or with respect to the obligations of Borrower under this Agreement, except those specifically set forth in this Agreement.

9.6. Entire Agreement. This Agreement and the other Loan Documents contain the entire agreement of the parties hereto with respect to the matters covered and the transactions contemplated hereby, and no other agreement, statement or promise made by any party hereto, or by any employee, officer, agent or attorney of any party hereto, which is not contained herein will be valid or binding. In the event of any inconsistencies between this Agreement and any of the other Loan Documents, such inconsistencies will be construed, interpreted and resolved so as to benefit Lender, independent of whether or not this Agreement or another Loan Document controls, and Lender's election of which interpretation or construction is for Lender's benefit will govern.

9.7. Loan Commitment. The terms of the Loan Commitment will survive Closing, provided that if any terms of the Loan Documents conflict with the provisions of the Loan Commitment, the terms and provisions of the Loan Documents will control.

9.8. Partial Invalidity. If any provision in this Agreement is for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provision of this Agreement, but this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein, but only to the extent it is invalid, illegal or unenforceable. Each such provision will be valid, legal and enforceable to the fullest extent allowed by, and will be construed wherever possible as being consistent with, applicable law.

9.9. Irrevocability of Obligations. The obligations of Borrower hereunder are irrevocable, absolute, unconditional, continuing and immediate, and are not subject to any right of setoff, recoupment, counterclaim or crossclaim of any nature whatsoever, which are hereby expressly, unconditionally and irrevocably waived by Borrower.

9.10. No Partnership or Agency. Neither party will be construed or held to be the partner or co-venturer of the other party, and neither party will have the right or authority, express or implied, to incur, create or assume any debt, obligation or liability on behalf of the other party, provided, however, that the foregoing will not be construed to terminate or diminish any power of attorney expressly granted to Lender hereunder.

9.11. Time of Essence. Time will be of the essence with respect to each and every term, obligation and covenant contained in this Agreement to be performed on the part of Borrower.

9.12. No Third Party Beneficiaries. No Person not a party to this Agreement will have any benefit hereunder nor have third party beneficiary rights as a result of this Agreement or any of the Loan Documents, nor will any Person be entitled to rely on any actions or inactions of Lender or Lender's agents, all of which are done for the sole benefit and protection of Lender.

9.13. Independent Investigation. Borrower's execution and delivery to Lender of this Agreement is based solely upon Borrower's independent investigation of Borrower's financial condition and not upon any written or oral representation of Lender in any manner.

9.14. Waiver of Jury Trial. BORROWER AND LENDER EXPRESSLY WAIVE ANY RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, CLAIM OR COUNTERCLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, THE OTHER LOAN DOCUMENTS, THE LOAN AND/OR ANY OF THE TRANSACTIONS OR MATTERS CONTEMPLATED HEREIN OR IN THE OTHER LOAN DOCUMENTS. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY BORROWER, AND BORROWER ACKNOWLEDGES THAT NEITHER

LENDER NOR ANY PERSON ACTING ON BEHALF OF LENDER HAS MADE ANY REPRESENTATION OF FACT TO INDUCE THIS WAIVER OF TRIAL BY JURY OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT. BORROWER AND LENDER ACKNOWLEDGE THAT THIS PROVISION HAS BEEN NEGOTIATED BY THE PARTIES, THAT IT IS A SPECIFIC AND MATERIAL TERM OF THIS AGREEMENT AND THAT LENDER WOULD NOT EXTEND THE LOAN TO BORROWER IF THIS WAIVER OF JURY TRIAL PROVISION WERE NOT PART OF THIS AGREEMENT.

9.15. Legal Advice. BORROWER ACKNOWLEDGES THAT BORROWER HAS HAD THE OPPORTUNITY TO SEEK THE ADVICE OF LEGAL COUNSEL IN CONNECTION WITH THIS AGREEMENT, THE LOAN DOCUMENTS AND THE LOAN AND HAS EITHER DONE SO, OR HEREBY EXPRESSLY WAIVES THE RIGHT TO DO SO.

EXECUTED under seal as of the Effective Date first set forth above, with the express intention that this Agreement be a sealed document.

WITNESS/ATTEST:

BORROWER:

HOWARD COUNTY, MARYLAND
a body corporate and politic

Lonnie R. Robbins
Chief Administrative Officer

By: _____(SEAL)
Allan H. Kittleman
County Executive

Date: _____

APPROVED for Legal Form and
Sufficiency this _____ day
of _____, 2018:

APPROVED for Sufficiency of Funds
this _____ day of _____, 2018:

Gary W. Kuc
County Solicitor

Janet R. Irvin
Director of Finance

Reviewing Attorney:

Kristen Bowen Perry
Senior Assistant County Solicitor

WITNESS/ATTEST:

LENDER:

SANDY SPRING BANK
a commercial banking institution

By: _____(SEAL)
Timothy J. Kelley, Vice President

Date: _____